

STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

**OFFICE OF HABITAT MANAGEMENT
AND PERMITTING**

1300 COLLEGE ROAD
FAIRBANKS, ALASKA 99701-1599

PHONE: (907) 459-7289
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FISH HABITAT PERMIT FH03-III-0336

ISSUED: December 18, 2003

EXPIRES: Upon Closure and Abandonment
of the Pogo Project

Mr. Karl Hanneman
Teck-Pogo Inc.
3520 International Street
Fairbanks, Alaska 99701

Dear Mr. Hanneman:

RE: Wolverine Creek Diversion, Pogo Project; Section 34, T5S, R14E, FM., Stream No. 334-40-11000-2490-3407-4169.

Pursuant to AS 41.14.870(b), the Alaska Department of Natural Resources, Office of Habitat Management and Permitting (OHMP) has reviewed your proposal to divert approximately 150 feet of Wolverine Creek for the purpose of accessing the Pogo Mine. The stream will be diverted to an old channel for the length of the diversion. A description of the proposed project was provided in your US Army Corps of Engineers project public notice dated September 19, 2003.

Wolverine Creek in the area of your proposed project has been specified as being important for the migration, spawning, or rearing of anadromous fishes in accordance with AS 41.14.870(a). Chinook salmon use this portion of the waterbody for rearing. Resident fish species (Arctic grayling, round whitefish) also use this stream during periods of open water. Your project as proposed may have adverse effects on anadromous fish or their habitat and may obstruct the free passage of fish.

In accordance with AS 41.14.870(d), project approval is hereby given subject to your proposed scope of work and the following stipulations:

- (1) Final design drawings (approved for construction) for the diversion of Wolverine Creek shall be prepared and submitted to the department for review and approval prior to beginning construction of the diversion. Final design drawings shall clearly show elevations for the stream thalweg, ordinary high water, and stream profile within the constructed channel.
- (2) Diversion channel preparation shall be performed in dry conditions to the extent feasible prior to diverting flow into the channel.

“Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans.”

- (3) Before conducting any instream maintenance activities following construction, plans describing the instream activities shall be submitted to the OHMP for review and approval.. A permit amendment will then be issued authorizing the activities.

The permittee is responsible for the actions of contractors, agents, or other persons who perform work to accomplish the approved plan. For any activity that significantly deviates from the approved plan, the permittee shall notify the OHMP and obtain written approval in the form of a permit amendment before beginning the activity. Any action taken by the permittee, or an agent of the permittee, that increases the project's overall scope or that negates, alters, or minimizes the intent or effectiveness of any stipulation contained in this permit will be deemed a significant deviation from the approved plan. The final determination as to the significance of any deviation and the need for a permit amendment is the responsibility of the OHMP. Therefore, it is recommended that the OHMP be consulted immediately when a deviation from the approved plan is being considered.

This letter constitutes a permit issued under the authority of AS 41.14.870. This permit must be retained on site during the permitted activity. Please be advised that this determination applies only to activities regulated by OHMP; other divisions with ADNR also may have jurisdiction under their respective authorities. This determination does not relieve you of the responsibility for securing other permits, state, federal, or local. You are still required to comply with all other applicable laws.

In addition to the penalties provided by law, this permit may be terminated or revoked for failure to comply with its provisions or failure to comply with applicable statutes and regulations. The department reserves the right to require mitigation measures to correct disruption to fish and game created by the project and which were a direct result of the failure to comply with this permit or any applicable law.

The recipient of this permit (the permittee) shall indemnify, save harmless, and defend the department, its agents and its employees from any and all claims, actions or liabilities for injuries or damages sustained by any person or property arising directly or indirectly from permitted activities or the permittee's performance under this permit. However, this provision has no effect if, and only if, the sole proximate cause of the injury is the department's negligence.

This permit decision may be appealed in accordance with the provisions of AS 44.62.330--44.62.630.

Sincerely,

Dick LeFebvre, Deputy Commissioner

BY: Robert F. McLean
Office of Habitat Management and Permitting
Alaska Department of Natural Resources

ecc: Bob Loeffler, ADNR, Anchorage
Al Edgren, ADNR, Delta
Anna Plager, ADNR, Fairbanks
Rich Harris, ADCED, Fairbanks

Mike Smith, Terra Nord, Anchorage
Jim Vohden, ADNR, Fairbanks
Luke Boles, ADEC, Fairbanks
Gary Folger, DPS, Fairbanks

Pete McGee, ADEC, Fairbanks
Victor Ross, USACE, Anchorage
Fred Bue, ADF&G, Fairbanks
Charlie Swanton, ADF&G, Fairbanks
Steve DuBois, ADF&G, Delta
Cindi Godsey, EPA, Anchorage
Kelley Hegerty, Kelley Hegerty & Associates, Fairbanks

Keith Mueller, USFWS, Fairbanks
Julie Raymond Yakoubian, ADNR, Anchorage
David James, ADF&G, Fairbanks
Fronty Parker, ADF&G, Delta
Bill Ridder, Delta
Sonja Ahlberg, NAEC, Fairbanks

cc: Ed Fogels, ADNR, Anchorage
Ichiro Abe, Sumitomo, Vancouver
Hahn Gold, EPA, Seattle
Lisa Jaeger, TCC, Fairbanks
Robin Moilanen, Friends of the Goodpaster, Fairbanks
Jim Movius, Goodpaster River Property Holders, Fairbanks

Mike Filion, Teck, Vancouver
Harry Bader, ADNR, Fairbanks
Gary Lee, Mendeschaag Corp, Fairbanks

RFM/jfw